

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MATTHEW BELL,

Petitioner,

Civil No. 2:16-cv-11439
Honorable Nancy G. Edmunds

SHAWN BREWER,

Respondent.

ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT [Dkt. 15]


On May 18, 2017, the court dismissed the instant petition for writ of habeas corpus as being untimely filed under 28 U.S.C. § 2244(d). Dkt. 9. The Court also denied Petitioner a certificate of appealability because jurists of reason would not find it debatable whether the Court was correct in its procedural ruling. *Id.*, at 7. Petitioner attempted to appeal, but the Sixth Circuit also denied Petitioner a certificate of appealability. *Bell v. Brewer*, No. 17-1748 (6th Cir. Dec. 27, 2017). Petitioner filed this motion under Rule 60(b), asserting that the court improperly applied the standard for granting or denying a certificate of appealability.

A Rule 60(b) motion “does not allow a defeated litigant a second [or fourth] chance to convince the court to rule in his or her favor by presenting new explanations, legal theories, or proof.” *Jinks v. Allied Signal, Inc.*, 250 F.3d 381, 385 (6th Cir. 2001). The Court can discern no basis in Petitioner’s motion that undermines the Court’s disposition of his certificate of appealability. As previously explained by this court and by the Sixth Circuit, Petitioner has not demonstrated that he is actually innocent so as to be entitled to equitable tolling of the statute of limitations - and that conclusion would not be debatable

among jurists of reason. Contrary to Petitioner's argument, the court did not somehow "invert" the analysis by basing its decision to deny a certificate of appealability on the fact that Petitioner did not demonstrate entitlement to habeas relief. Rather, the court recited the standard governing certificate of appealabilities and then applied it. The Sixth Circuit agreed with the court's disposition of the case.

Based upon the foregoing, **IT IS HEREBY ORDERED** that Petitioner's Motion for Relief From Judgment [Dkt.15] is **DENIED**.

Dated: 10-10-18



Hon. Nancy G. Edmunds
United States District Judge